



A Crisis of Accountability



"This policy of supplying, by opposite and rival interests, the defect of better motives, might be traced through the whole system of human

affairs, private as well as public. We see it particularly displayed in all the subordinate distributions of power, where the constant aim is to divide and arrange the several offices in such a manner as that each may be a check on the other that the private interest of every individual may be a sentinel over the public rights."

— James Madison, the *Federalist Papers*

Incompetent airline security, sexually abusive priests, missed warnings of pending terrorist attacks, charities refusing to give designated money to families of September 11th victims, children lost by protective services, business financial corruption, and the list goes on. The overwhelming issue in this new century is a crisis of accountability.

In light of all the corruption and system failures that are occurring, everyone is asking, "What happened to the America's safeguards? What happened to the checks-and-balances that are supposed to prevent such disasters?" In unusual bipartisan agreement, because you can't deny the obvious, just about every politician in the country is admitting that, over the past several years, our system of checks-and-balances quit working, setting us up for the crisis we are now in. The only question is why, and how can we repair the damage.

Why Did We Degrade Our Safeguards?

As a lecturer at Harvard University and the U.S. Naval War College, Pulitzer Prize winning historian Barbara Tuchman (1912-89) devoted her life to examining why people, organizations, and governments flagrantly ignore obvious warnings as they pursue policies and systems that are contrary to their long-term best interests. In 1984, she published her findings in the book, "The March of Folly." In retrospect, it predicted our current dilemma precisely.

According to Tuchman, there are four kinds of mismanagement or misgovernment, often in combination:

1. **Tyranny:** arrogantly imposing your ideas, by force or secrecy
2. **Excessive Ambition:** the selfish desire for personal gain
3. **Incompetence:** a decadent inability to see your own failings
4. **Folly:** a perverse disregard for established truths

In our modern democratic society, most often it is "folly" that enables tyranny, excessive ambition and incompetence to flourish, says Tuchman. This is why it is the focus of her book. Tuchman gives historic examples of folly in her book. And now, with the results of numerous investigations coming in, it is obvious that many of our most recent scandals have also been the result of leaders breaking established truths, then abandoning the rest of society to bear the burden of their bad ideas. Their most obvious folly being the

purposeful subversion of checks-and-balances.



"Government is not reason, It is not eloquence — It is a force! Like fire, it is a dangerous servant, And a fearful master; Never for a moment

should it be left to irresponsible action."

— George Washington

Our American Heritage – Sabotaged

The need for checks-and-balances has been an established truth since the founding of this country. But bad ideas, like reducing checks-and-balances, are seductive, says Tuchman. Bad ideas get sold because they often seem easier, less expensive, and more decisive. The problem is, without checks-and-balances, you're taking prosperity and human integrity for granted. Such folly is usually the result of being too focused on short-term benefits. It's like self-hypnosis or wishful thinking, because you really need to put the blinders on and ignore the long-term threats if anything, or anyone, goes wrong.

It is by common agreement that the American Founding Fathers were "the most remarkable generation of public men in history," cites Tuchman. Never has so much intellectual candlepower burned in one place, before or since. William Durant (1885-1981), another great historian, said that our Founders understood the "Human Predicament" — the relationship between freedom and order — like no others.

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America's Founders sought to create a system that maximized freedom of enterprise to foster human flourishing, but also mistrusting all consolidations of power as a threat to liberty and prosperity, our Founders established a system of checks-and-balances through a deliberate separation of powers. Rivaling power structures were purposely created to watchdog each other, and to also safeguard the rights of each other — this was the most important innovation ever in organizational design.

Founder James Madison said, "experience has taught mankind the necessity of auxiliary precautions...in private as well as public." And throughout U.S. history, public and private institutions in America have sought to emulate checks-and-balances in their organizational structures. Checks-and-balances protect our nation's prosperity from self-serving people who would consolidate power at the expense of the many. Checks-and-balances also protect us from simple misjudgment, because people are prone to make mistakes.

But in the '90s, we committed folly — we deluded ourselves into thinking we had evolved beyond the need for safeguards. Some of the most popular business books went so far as to openly damn the virtues of democratic management, and praise tyranny and selfish ambition as good. Consider the best selling author Harvey Mackay, who said: "There's a lot to be said for democracy, but two of the things you can't say for it are that it's either cheap or efficient. Sometimes you get good results from bad motives." But the removal of checks-and-balances has not provided good results. This folly has proven to be pennywise and pound-foolish. In the effort to be cheaper and more efficient, we have reached new heights of expense and corruption. As it turns out, a system of checks-and-balances is still the

most effective and efficient way to administer organizations, or countries, made up of human beings.

Where Did Our System Break Down?

Our current crisis of accountability would be doubly tragic if we failed to learn from it. But in order to fix our system, we first need to identify where it broke down. Police departments, as well, must take heed. They have no inherent immunity to the temptations of folly.

CONFLICT OF INTEREST LENDING TO COLLUSION: "It was the Board," according to the U.S. Governmental Affairs Subcommittee on Investigations, "The evidence shows that the board went along with Enron's off-the-books deception." "It was the Bishops," according to Bishop Wilton Gregory, president of the U.S. Conference of Catholic Bishops. The Bishops "were worried about the priesthood instead of the kids," he said.

Like the auditing firm Arthur-Andersen, the independence of many board members of failed companies was compromised by paying them consulting fees, or by previous relationships with the company. Instead of being watchdogs, accountable only for maintaining standards, they became part of the power prestige of the organization, creating a dangerous conflict of interest.

Then there was the accounting industry itself, which relied on a "self-regulating" peer review system instead of an autonomous commission. Described as a "toothless tiger," accountants from different firms developed a partisan "you scratch my back, I'll scratch yours" mentality since they could benefit from each other's endorsement.

Tuchman explains that individuals and organizations have always leaned toward self-protection, even at the expense of protecting the public. Ironically, even the Bishops of the Catholic Church, evangelists on the dangers of original sin, were willing to sacrifice children to protect the Church's reputation. They were too closely connected to the problem.

A DYSFUNCTIONAL CHAIN-OF-COMMAND AND INSPECTION SYSTEM: In hindsight, we now know there was a lot of information (too much information) that warned of impending terrorism. But our homeland defense problems go way beyond computer overload. Chain-of-command, which is suppose to be a multi-layered system of checks by supervision, and a pipeline for information to leadership, wasn't working because supervisors simply had too much coming at them.

According to a July report from the House Intelligence Subcommittee on Terrorism, "Because of the perceived reduction in the threat environment in the early and mid 1990s...there were fewer [CIA] operations officers, fewer stations, fewer agents, and fewer intelligence reports produced." As a result, the remaining agents became overwhelmed, and communication broke down within agencies and between agencies. The command structure was simply too busy to stand back and see the forest from the trees.

One of the principal causes why the auditing firm Arthur-Andersen failed to do its job is that they gave unbridled empowerment to their field offices. The main headquarters for Arthur-Andersen had no system of inspection or quality review. In other words, nobody was auditing the auditors — nobody was policing the police. They decentralized to the point that the head didn't know what the body was doing — this is the same problem that the House Intelligence Subcommittee on Terrorism found with the FBI. The Catholic Church, as well, was decentralized, with a flattened chain-of-command, so there was only the Bishops to keep standards up, and nobody was watching them.

The Securities and Exchange Commission, top of the pyramid in the policing of the nation's stock market and public companies, has blamed understaffing for its failure to see all the corruption occurring under its nose. "The SEC has not had enough funds to do either the investigatory work or the enforcement work that's needed in today's climate, nor does it have the funds to engage in inspections of filed financial reports," says David Ruder, a former SEC chairman,

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now a law professor at Northwestern University. The agency also doesn't have enough money to hire and keep the lawyers and accountants it needs to crack down on corporate fraud, cases which often take two years to unravel.

Understaffing has likewise been linked to the breakdown of Child Protective Services in Florida. Lawsuits have been filed in at least a dozen more states alleging inadequate protection of children. "Florida is like most of the rest of the country, only more so. This could have happened in any state," said Richard Wexler, executive director of the National Coalition for Child Protection Reform. Florida must oversee an overwhelming caseload of 46,403 children in foster care alone.

TOO MUCH POWER IN THE HANDS OF A FEW: It's the worst crisis in the history of the Catholic Church, Bishop Wilton Gregory said, because you can't trust a church that would harm your children. Why did it happen? Gregory says, "It's a power thing," agreeing with Tuchman and America's Founders that power is corrupting without checks-and-balances, "The clerical and hierarchical community began to enjoy power and prestige more than we should."

This same corruption of power occurred in the wake of the September 11 tragedy. Citizens across the nation poured money into the coffers of charities intending it for the families of victims, only to find out later that many families hadn't received a cent, and that the charities were using the money as they saw fit.

In the case of the Enron collapse, the chief executives purposely used complexity to hide their actions. They bragged that they were the "coolest" company in the world, but they were violating fundamental rules and calling it "innovative." When one employee caught on to what was happening and cried foul, he was transferred out of the risk-management division because "he was acting like a cop." Another employee who tried to challenge things was labeled "Gestapo" for her "narrow-minded traditionalism." According to the Washington Post, Enron set itself up for self-destruction, "a culture of

ambition, secrecy and greed made collapse inevitable."

In a July 9 speech on Wall Street, President Bush concurred with Tuchman's theory that everyone is vulnerable to the "seduction" of ease, money and power. The folly of bad decision making was made possible because deregulation allowed for the consolidation of power into the hands of a few — power without reciprocal accountability, without checks-and-balances. Calling for a "new ethic" in the wake of all the corruption, Bush said, "We must usher in a new era of integrity... Responsible business leaders do not jump ship during hard times...do not collect huge bonuses as the company prepares to file for bankruptcy, leaving employees, retirees and investors to suffer."

Putting Democracy Back in Our Institutions

The public is most familiar with our government's division of power into executive, legislative and judicial bodies, as well as the two-party system that watchdogs each other. Police are part of the executive branch, but are also controlled by legislation. Judicial scrutiny, like burden of proof standards, also serve as checks-and-balances on police. But within organizations, additional checks-and-balances can take many forms.

ADEQUATE SUPERVISION AND INDEPENDENT REGULATION: Among his proposals, President Bush realized that an "independent" regulatory board for the accounting industry would be worthless if the regulators weren't qualified. This "qualifications" crisis for supervisors, or board members, may remind police of a similar problem concerning Parole Board appointees that was resolved several years ago by creating higher standards for both their employment and decision making.

Bush also wants to create a Corporate Fraud Task Force — a police department for the white-collar world. This



"The Nation Makers" by Howard Pyle
Every Person Free and Equally Accountable

is a highly significant step. Up to now, our government has not studied, collected statistics, and treated corporate crime the same way it does street crime. The policing of corporate and organizational deviance remains a huge area awaiting development, and will be instrumental in raising the standards of capitalism.

The federal government is also trying to work out a new Department of Homeland Security that will consolidate existing departments, creating a better chain-of-command, "so that these leaders can be held accountable" in the fight against terrorism, says President Bush. But just in case the chain-of-command fails, other means of accountability are being devised. Christopher Edley, of the U.S. Commission on Civil Rights, has suggested that the new Department include an "Office of Rights and Liberties" that would report to the public as well as to the President. Likewise, the House Intelligence Subcommittee on Terrorism recommends that a senior staff mechanism within the leadership of both political parties be created to oversee and coordinate homeland security issues. Additional checks-and-balances for the new department are still being debated.

And then there is the Catholic Church, who at first resisted demands for better checks-and-balances, asserting that the Church is not a democracy. They had only one check on priests — a disjointed group of bishops. But under intense "democratic" pressure, now they have assembled a third

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body, comprised mostly of laity or parishioners, with the authority to keep watch on the other two groups. If this is not enough, there will be more hew and cry from the parishioners until it's done right — this is the cleansing power of freedom.

OPEN RECORDS FOR INSPECTION AND OVERLAPPING AUTHORITY: The current crisis of accountability has shown that it's hard to have adequate supervision and independent regulation if you can't find out what's going on. Open debate, another check-and-balance, also relies on transparency — the free flow of information. This is why legislation is also being initiated to protect whistleblowers who break the secrecy that hides the corrupt.

Consequently, like a police officer, regulatory agents need some measure of authority to dig deep and enforce standards. Some system of rules are needed so that timely, accurate feedback gets to supervisors and regulators. When this fails, America relies on the availability of another regulatory entity with overlapping jurisdiction that they can go to if the other entity isn't doing its job.

This is why Americans like multiple law enforcement agencies — city, township, county, state, and federal — because, in the long run, Americans know that this system of checks-and-balances is more effective and efficient than having just one national police force.

STANDARDS OF ACCOUNTABILITY AND THOROUGH INVESTIGATIONS: “The era of low standards and false profits are over,” President Bush proclaimed when he signed the Business Fraud Bill on July 30. The measure not only provided new oversight, but also accountability standards with criminal penalties. While the new Department of Homeland Security is still in the works, the federal government has already moved away from a “profit” oriented airline security system in favor of a professional policing model, emphasizing strict standards of training, performance, and accountability.

Consider the public outcry over the airline security debacle, the Enron scandal, the Rodney King beating,

the LAPD Rampart Division scandal, as well as the recent investigations concerning the alleged beatings in Inglewood California and Oklahoma City. The public wants to know what the standards are, and they want a reasonably swift, thorough investigation. And if anyone is culpable, they want just punishment.

In the case of the Red Cross, their president rankled the public by refusing to go along with a coordinated effort led by the New York attorney general to keep track of how much money was being given to each family, and after the fallout, she was forced to resign. Standards of accountability should always roll up hill to the chief or CEO, who is supposed to be the ultimate watchdog. Administrative excuses don't carry much weight, and shouldn't.

House Commerce Committee spokesman Ken Johnson concurred from their investigation that, “The Red Cross made a mistake, acknowledged it, and has now built safeguards into its fund-raising policy to prevent these kinds of problems from occurring again.”

In the wake of all the scandals going on, it is good to know that leaders are still measured by their integrity. If the leader is not involved in the corruption, actively or through neglect, they are judged by their courage to sacrifice along with everyone else. They are expected to deliver a quality investigation, appropriate enforcement, followed by improved checks-and-balances so it's not likely to happen again.

Conclusion

It may have occurred to you that our system of checks-and-balances is supposed to prevent folly from occurring, yet it was folly that caused the erosion of checks-and-balances. But before you lose faith in our system, keep in mind that enough checks-and-balances have remained to stop the corruption, and that the recovery is already underway. Unlike other countries, according to Tuchman, “the American arrangement has always managed to right itself.” In fact, it's been said that the American system was designed by geniuses so it could be run by fools. That is the beauty of democracy, it repairs itself.

The balance between freedom and accountability is a continuous give and take, trial and error process. But the main thing we need to keep in mind is that “order is a means” to liberty — “liberty is the end.” So in reestablishing our checks-and-balances on power, we must strive not to over-swing the pendulum. Just as our liberty and welfare can be jeopardized by too few safeguards, it can also be jeopardized by too many restrictions. Democracy is a working paradox — the trick is to secure liberty through accountability.

The law enforcement profession, one of the most accountable government agencies ever to exist, must never take checks-and-balances for granted. Because in the last several years, we have also seen police departments succumb to the crisis of accountability. So it would be wise, in light of all the bad influences of the 90s, for police departments to take a fresh look at their administrative process. And to begin with, we would all be better off if we spent some time studying our American Heritage and reminding ourselves of how democratic government is suppose to work.



Suggested reading: “*Common Sense*” and “*The Rights of Man*” by Thomas Paine; “*The Federalist Papers*” by Alexander Hamilton, James Madison, and John Jay; “*The Creation of the American Republic*” by Gordon S. Wood; “*Founding Brothers: The Revolutionary Generation*” by Joseph J. Ellis; “*The First Salute*” by Barbara W. Tuchman; “*The Spirit of Modern Republicanism: The Moral Vision of the American Founders and the Philosophy of Locke*” by Thomas L. Pangle.

Islamic Zealots, Corporate Predators, and the Attack on Democracy: A Moral Perspective On Our Current State of Affairs

Contributed by Lt. Col. Dave Grossman, U.S. Army, (Ret.)

The past year has seen America's values attacked on two fronts: By freedom hating Islamic zealots, and by freedom abusing corporate predators. In light of these two extremes, many Americans are confused, and feel like we are fighting a two front war. What's the cause of this? Can American philosophy survive?

First, we must understand that this moral calamity is not new. Our problems are the problems of human moral development, as illustrated by the research of Lawrence Kohlberg (1927-1987). A professor at Harvard University, Kohlberg tracked "moral reasoning" in response to hypothetical moral dilemmas. He was not concerned with WHAT people did, but focused attention on WHY they chose a course of action. He established 6 levels of motivation, from lowest to highest:

PRE-CONVENTIONAL MORALITY

(External motivations which will cause action to disappear as soon as the threat or the reward goes away.)

1. *Motivation by Fear of Punishment* — obedience orientation
2. *Motivation by Greed/Personal Reward* — looking out for #1

CONVENTIONAL MORALITY

(External motivations which MIGHT remain under certain circumstances.)

3. *Motivation by Shame/Saving Face* — willing conformity to parents/peers/culture, but as prostitutes selling themselves at a convention know, many people check their morals at the city limits, if they think that nobody will find out!
4. *Motivation by Internalization of the Law* — obey rules for the law's sake, because you were taught to obey the Ten Commandments, but you don't understand why and if legitimate authority changes the law (i.e., it's OK to kill Jews) then you go along with it.

POST-CONVENTIONAL MORALITY

(The only true internalized motivations based on abstract concepts. Someone in level 5/6 will generally not change

their behavior unless you convince them, intellectually, rationally, of the necessity to do so.)

5. *Motivation by Social/Moral Contract* — this "pulls up" (sometimes not near enough, but nonetheless discernibly) the general moral level of the population. Example, the United States Constitution, which establishes our fundamental baseline of principles that are used to guide our nation by creating in interactive, amendable contract that establishes laws to serve the majority while protecting basic rights.
6. *Motivation by Universal Ethical Principles* — the Golden Rule, New Testament, or the Declaration of Independence (or, perhaps, the Preamble to the Constitution), implies a perfect equivalence of duties and rights, but also self-sacrificing love beyond expecting anything in return. This level of morality is the ideal, but is sometimes too abstract for routine day-to-day operations.

The amazing thing in the research is that in totalitarian nations where, L-4, blind, rigid adherence to the law (as set forth by the rulers) is the objective, almost everyone functions at L-1 and lives in fear, with a handful in L-2, greed, and anything above that is (almost) non-existent.

But in democracies (if you will permit me to use the term broadly, since in the U.S. we are technically in a republic or a representative democracy), in democracies the average individual exists in level 2/3/4, motivated by greed, shame and law, while there is a smattering of those powerful moral individuals who truly have internalized their moral values (mostly deeply religious individuals) and serve to pull the rest of us up. (Think, for example, of the priest in Victor Hugo's "Les Miserables," whose generosity transformed Jean Valjean.)

We have nearly defeated the most significant totalitarian (L-1) threat with the collapse of the Soviet Union and the Warsaw Pact, and today the majority of the world's population elects their national leaders. But there is

still a MAJOR threat from terrorists (remnants of L-1 control by "fear," and fostered by the remaining non-democratic, totalitarian governments). But the NEXT challenge before us is to overcome (L-2) greed motivation, such as the media whose "drug dealer morality" says: "People buy our violence and sex, so we have the right to sell it!" And all those corporate predators who undermine our capitalist economy by looting company profits and pensions for their own selfish benefit.

If we were to win the war against corporate greed (L-2), how would a victory manifest itself? I would submit that we should see increased corporate focus on community, citizenship, charity, overall spirituality, and demands for more accountability at all levels, acting just like a government.

(In fact, some companies are already forming their own L-5 "constitutions" to establish moral laws and baselines. Whole Foods Market, for example, which besides having environmentally friendly policies, has capped their top salary to being no more than ten times what the average employee makes, and they give a mandatory 5% of gross profit to charity. With this foundation, they then try to inspire L-6 behavior from their employees.)

What Kohlberg demonstrates is that, just because (almost) everyone falls short of actually operating at the moral level of the Constitution (L-5) and religious "grace" (L-6), does not mean that we should give up on these. We NEED these as our inspiration and scales for justice! Now, since Sept 11, we are back to fighting L-1 fear mongers. Still, we have to fight the battle on our corporate front against L-2 greed mongers. And the way to do that is to hold people to HIGH moral standards, as found in religion, and the Constitution.

So, does all this make sense? Can we perceive that the war on totalitarian zealots and selfish corporate raiders is actually a war on ourselves? But are good things happening as a result of these wars? Are we moving society to the next level? And, most importantly, are you doing anything to help? 🍌

Inter-Agency Cooperation Beats Technology



President George W. Bush visits the New York City Police Department's Emergency Command and Control Center.

Since September 11, communities across America have been racing to modify their Emergency Management programs to be more responsive and accountable. The key is in command and control — emergency coordinators with good communications linked to a network of properly equipped responders. But as the following editorial emphasizes, emergency response comes short during a crisis without inter-agency cooperation laying the groundwork — beforehand! (Published with permission: Ed Sanow, Editorial Director, Law and Order Magazine.)

“A recent APCO survey of public safety officers produced a somewhat surprising result: joint planning and inter-agency cooperation is much more important to solving the interoperability problem than the development of new technologies, buying new equipment or adding radio frequency spectrum.

Actually, that is not a surprise to those who have taken part in multi-agency, multi-discipline emergency response drills or exercises. Yes, new gear and new technology play a role in the seamless response. However, these more costly options pale in

comparison to the virtually free acts of inter-agency cooperation and pre-planning, and less costly drills and exercises.

Some agencies are already conducting large scale, critical incident drills involving police, fire, EMS, MedEvac helicopters, hospitals and emergency management. Ironically, some of those who are not doing this type of training cite the difficulty of coordinating the event across agency, government, and state lines and between disciplines. Yet, that is exactly what the real critical incident will require. That is the whole point of doing the exercise.

A few agencies point to multi-agency, multi-discipline training as the key to success in past critical incidents. The emergency response to the CSX train tunnel fire in downtown Baltimore is one such success story.

Literally every police department should cross-train in this manner. The drills should involve everyone from patrol on the perimeter to the incident command staff. You will be astounded at the errors and problems that will surface the first few times. As any instructor will say, it is better to find

those problems during training.

These mock drills should involve a wide variety of city, county, state and federal emergency responders. The pre-planning, per se, will break down the very barriers that are being used against us to hamper our response.

However, the drills must be well written and realistic. The scenario must roll out just as it really would with limited, incorrect and ever-changing information. It must include “something for everyone” and it must be challenging. It cannot be a free for all. Role-playing must be structured and within limits to be meaningful.

Law enforcement and other public safety agencies DO need better technology. We DO need more equipment. We DO need more funding. Most of all, however we need more cross-agency, multi-discipline coordination, cooperation and interaction.

New technology is not the key to homeland security: people are. The interagency barriers fell on September 11. Chiefs and sheriffs must lead from the top to keep those barriers down.”

James Madison once said that, “Experience has taught mankind the necessity of auxiliary precautions.” This is a maxim for Emergency Management. Multiple systems and backups are essential to a profession that must expect that everything will go wrong. So we need to walk-the-talk of collaboration. And while it was character and heroism that we saw demonstrated on September 11, we can’t use that as an excuse for insufficient preparation.

For more information, go to the Michigan State Police website at www.michigan.gov/msp and search under the “Homeland Security” link. The International Association of Chiefs of Police also has a report, “Leading From The Front: Law Enforcement’s Role in Combating And Preparing for Domestic Terrorism,” which can be found at www.theiacp.org.

Number of Copies Printed: 4,500
Total Cost: \$778.50 Cost Per Copy: \$0.173